IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

RCRev..No. 410 of 2006()

RCA.50/2005 of D.C. & SESSIONS COURT,KOZHIKODE
RCP.34/2004 of MUNSIFF COURT, PAYYOLI
.....

REVN. PETITIONER/APPELLANT/RESPONDENT

KOYAKANDY IBRAYINKUTTY, AGED 66 YEARS,
S/O. HASSAINAR, VANMUKHAM AMSOM,
KADALUR DESOM, KOYILANDY.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS: RESPONDENT/PETITIONER

SUHARA, W/O. MAHAMOOD, AGED 49 YEARS,
RESIDING AT 'THUSHARA', VANMUKHAM AMSOM,
VEEMANGALAM DESOM, KOYILANDY.

BY/

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

R.C.R. NO. 410 OF 2006

Dated this the 6th day of December 2006

ORDER

Udayabhanu,J

The Revision Petitioner is the tenant under orders of eviction vide section 11(3) of Kerala (Buildings (Lease & Rent Control) Act. It is the case of the petitioner/tenant that the application has been filed by the land lord only on account of the reason that he did not abide by her demand for enhancing the rent and that the landlady is not in need of starting a business as she is rich and that her husband is working abroad. She/the landlady is running a jewellery shop near the premises. Further there are alternative premises owned by the landlady wherein she can start the business. The petitioner is running a stationery shop and the need put forward is for the starting of a modern tailoring shop with 6 sewing machines, counter, cutting table etc. The courts below have found that alternative premises pointed out in the ownership of the petitioner is of lesser size and that the same is not facing the national highway as is the case of the petition schedule premises and that the petition schedule premises has got the additional advantage of having a varandah. It is also seen from the

proceedings that other alternative shop premises pointed out was offered to the petitioner and he declined the same. We find that the intention of the landlady to start a stitching outfit despite the fact that she was running a jewelery is not a reason to decline the relief as the desire for augmenting the income cannot be said to be unreasonable or not legitimate. The court below on the basis of the Commission report and evidence adduced has found that the other premises in the possession of the landlady is not suitable and are not as convenient as the petition schedule premises. In the circumstances, and in the light of the evidence adduced in the matter we find no reason to interfere.

All the same and considering the plea of the Revision Petitioner, the petitioner is granted six months time from today i.e., till 06.06.2007 to vacate the premises on condition that he shall remit the entire arrear of rent and shall continue to remit the future rent and file an affidavit in this regard before the execution court within 15 days from today onwards. The R.C.R is disposed of accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

RV